

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA FOR THE
USE AND BENEFIT OF WELLS CARGO,
INC.,

Case No. 2:18-CV-1182 JCM (EJY)

ORDER

Plaintiff(s),

v.

ALPHA ENERGY AND ELECTRIC, INC.,
et al.,

Defendant(s).

Presently before the court is defendant Alpha Energy and Electric, Inc.'s ("Alpha") unopposed motion to correct the judgment. (ECF No. 289).

On March 20, 2023, this court entered an order granting Alpha's motion for attorney fees against Northcon, Inc. ("Northcon"). (ECF No. 287). That same day, the clerk's office inexplicably entered judgment "against Plaintiff United States of America for use and benefit of Wells Cargo, Inc." This was a clerical error. (ECF No. 288).

Federal Rule of Civil Procedure 60(a) allows courts to "correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record." Fed. R. Civ. P. 60(a). A clerical error is "where what was spoken, written or recorded is not what the court intended to speak, write or record." *In re Jee*, 799 F.2d 532, 535 (9th Cir. 1986).

Upon review of the order and judgment, the court intended Northcon to bear the fee award. For example, the order contemplated that "[b]ecause the court granted Northcon's motion for reconsideration as it relates to attorneys' fees for ACIC, the court will address only Alpha's

1 motion. Further, because Southwestern's claims have been assigned to Northcon (ECF No. 237),
2 any attorneys' fees related to its claims would be borne by the assignee, Northcon." (ECF No. 287
3 at 8). The court also reasoned that "Northcon has failed to show that the fees and expenses are
4 unreasonable... Therefore, the court finds it appropriate to award Alpha an award of attorneys'
5 fees and costs in the amount of \$192,995.57." (*Id.* at 11).

6 The court's order did not once mention the party referred to in the judgment, and it
7 contemplated that the judgment for attorney fees would be rendered against Northcon, the losing
8 party at trial.

9 Accordingly,

10 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Alpha's motion to correct
11 the judgment (ECF No. 289) be, and the same hereby is, GRANTED.

12 IT IS FURTHER ORDERED that the clerk shall enter an amended judgment reading:
13 "Judgment is entered against Counterclaim Plaintiff Northcon, Inc., and in favor of Counterclaim
14 Defendant Alpha Energy and Electric, Inc., for \$192,995.57 in costs and fees."

15 DATED April 21, 2023.

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17 UNITED STATES DISTRICT JUDGE
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